

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

JOE HOLCOMBE ET AL;
Plaintiffs

-VS-

UNITED STATES OF AMERICA,
Defendant

SA-18-CV-00555-XR

Consolidated with:

Nos. 5:18-CV-712-XR; 5:18-CV-881-XR;
5:18-CV-944-XR; 5:18-CV-949-XR;
5:18-CV-951-XR; 5:18-CV-1151-XR;
5:19-CV-184-XR; 5:19-CV-289-XR;
5:19-CV-506-XR; 5:19-CV-678-XR;
5:18-CV-691-XR; 5:18-CV-705-XR;
5:19-CV-706-XR; 5:19-CV-714-XR;
5:19-CV-715-XR; 5:19-CV-805-XR;
5:19-CV-806-XR; 5:19-CV-953-XR;
5:19-CV-972-XR

ORDER

On this date, the Court considered Defendant's Motion for Leave to Designate Responsible Third Parties (ECF No. 150). The motion is hereby GRANTED.

Texas Civil Practice and Remedies Code section 33.004 provides, in relevant part:

(a) A defendant may seek to designate a person as a responsible third party by filing a motion for leave to designate that person as a responsible third party.

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(i) The filing or granting of a motion for leave to designate a person as a responsible third party or a finding of fault against the person:

(1) does not by itself impose liability on the person; and

(2) may not be used in any other proceeding, on the basis of res judicata, collateral estoppel, or any other legal theory, to impose liability on the person.

TEX. CIV. PRAC. & REM. CODE § 33.004.

Further, pursuant to section 33.004(h), by granting a motion for leave to designate a person as a responsible third party, the person is designated as a responsible third party for

purposes of chapter 33 (including submission to the jury under section 33.003¹) without further action by the court or any party.² Section 33.004(l) provides that:

After adequate time for discovery, a party may move to strike the designation of a responsible third party on the ground that there is no evidence that the designated person is responsible for any portion of the claimant's alleged injury or damage. The court shall grant the motion to strike unless a defendant produces sufficient evidence to raise a genuine issue of fact regarding the designated person's responsibility for the claimant's injury or damage.

Should Plaintiffs desire to file a motion under section 33.004(l), such a motion must be filed no later than the deadline for filing dispositive motions in the scheduling order.

The Motion for Leave to Designate Responsible Third Parties (ECF No. 150) is GRANTED. Devin Patrick Kelley, Academy, Ltd., d/b/a Academy Sports & Outdoors, and John Does 1-10 are designated as a responsible third parties.

It is so ORDERED.

SIGNED this 5th day of November, 2019.



XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE

¹ However, section 33.003 does not allow a submission to the jury of a question regarding conduct by any person without sufficient evidence to support the submission.

² Before the 2003 amendments to section 33.004, responsible third parties were actually joined as parties to the suit. However, since the 2003 amendments, responsible third parties are now designated, not joined.